

IN RE: William C. & Sue T. Anderton )  
Map 072-13-0, Parcel 122.00 ) Davidson County  
Commercial Property )  
Tax Year 2005 )

### Statement of the Case

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$16,500	\$73,500	\$90,000	\$36,000

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on August 14, 2006, at the Davidson County Property Assessor's Office; present at the hearing were William C. Anderton, the taxpayer, who represented himself; and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor's Office.

The issue before the administrative judge is one of classification of the property, is this residential or commercial property? The subject property is the prior homestead for the taxpayer and his family, it was built in 1938. After his parents died he purchased the property from his siblings by quit claim deeds in 1999 and 2001, Mr. Anderton then made some adjustment in the home and turned it into a duplex. The taxpayer further stated that while he agrees that the property has two (2) separate rental units, one upstairs and one downstairs with outside side steps that lead to the upstairs unit he still believes that the property is residential rather than commercial. The taxpayer states that except for the outside side stairs the home does not look like a rental unit, it has one water meter and one electric meter therefore he believes that it is a private residence and should have an assessment rate of 25% rather than the current 40%.



The County's position is clear, pursuant to Tennessee Code Annotated (T.C.A.) § 67-5-501(4):

. . . . All real property which is used, held for use, for dwelling purposes which contains two (2) or more rental units is hereby defined and shall be classified as "industrial and commercial property".

The subject property, by statutory definition is without question, a duplex, not a single family residence.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn.App. 1981)

The administrative judge finds that based on the proof established at the hearing, the controlling statute and the testimony of the taxpayer, the subject property is a commercial duplex. The taxpayer has not sustained his burden in this cause.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$16,500	\$ 73,500	\$90,000	\$36,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order";** or

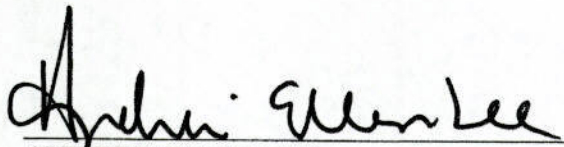


2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 29th day of September, 2006.

  
ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
STATE BOARD OF EQUALIZATION

cc: William C. & Sue T. Anderton, Taxpayers  
JoAnn North, Metro. Property Assessor